

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

UNITED STATES OF AMERICA)
)
)
v.) Cause No. 1:22-CR-49
)
)
ECHO A. SCHEIDT)

NOTICE OF SUPPLEMENTAL AUTHORITY

Comes now the United States of America, by its counsel, Clifford D. Johnson, United States Attorney for the Northern District of Indiana, through Brent A. Ecenbarger, Assistant United States Attorney, to notify this Court of new, relevant authority pertaining to Defendant's Motion to Dismiss based on *New York Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022).

On March 14, 2023, Judge Simon denied a Motion to Dismiss an indictment alleging Defendant violated 18 U.S.C. § 922(a)(6) and 924(a)(1)(A). *United States v. Campbell*, 2:22-cr-23 (N.D. Ind.) (Simon, J.) (Dkt. 31).

The Court first analyzed the law of facial constitutional challenges. *Id.* at 4-5. It then rejected Defendant's motion based on the plain language of the Second Amendment because "Campbell has not advanced any argument that the statutes requiring honest answers on the 4473 Form restrict *his* right to bear arms, or *his* right to self defense." *Id.* at 7-9 (emphasis in original).

Alternatively, the Court agreed with the government's position that Campbell "cannot knowingly answer the question on the firearms dealer form falsely, and then after he is caught making a material misrepresentation, raise a constitutional challenge 'to the propriety of the very question.'" *Id.* at 9-10 (quoting *Dennis v. United States*, 384 U.S. 855, 867 (1966)).

In yet another alternative holding, the Court found that Campbell was not a "law abiding citizen" who was entitled to Second Amendment protection. *Id.* at 10-11. The Court rejected Defendant's reliance on *United States v. Holden*, and any argument based on 18 U.S.C. § 922(n) as Campbell's "case has nothing to do with receipt of firearms by those under felony indictment." *Id.* at 11-13. Finally, the Court rejected any argument the questions on the 4473 Form were an unconstitutional delegation of power from Congress. *Id.* at 13-14.

WHEREFORE, the United States provides this supplemental persuasive authority for the Court's consideration.

Respectfully submitted,

CLIFFORD D. JOHNSON
UNITED STATES ATTORNEY

By:

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